

112

Date: November 17, 2004 Planning Commission Meeting

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared by: Troy Fujimoto

Public Hearing: Yes: X No:

Notices Mailed On: 11/4/04 Published On: 11/4/04 Posted On: 11/5/04

TITLE: **KB HOME/ELMWOOD RESIDENTIAL DEVELOPMENT PROJECT**

Permits: EA2003-7, GP2003-1, ZC2003-2, MA2003-4, PD2003-1, SZ2003-6, and UP2003-26

Location: Both sides South Abel Street, north of the Elmwood Correctional Facility and land located along the eastern edge of I-880, north of Great Mall Parkway.

APN(s): 086-05-003, 009, 012, 021, 086-10-001, 025 & 026, 086-11-008 & 013, and 086-25-010

RECOMMENDATION: **Recommend approval to the City Council.**

Applicant(s): KB Home South Bay Inc., 6700 Koll Center Parkway, Suite 200, Pleasanton, CA 94566, attn: Ray Panek

Property Owner(s): County of Santa Clara, Office of the County Executive, County Government Center, East Wing, 11th Floor, 70 West Hedding Street, San Jose, 95110, attn: Larry Klamecki
City and County of San Francisco in care of San Francisco Water Department, 1000 El Camino Real, Millbrae, CA 94030
City of Milpitas, 455 E. Calaveras Boulevard, Milpitas, CA 95035

Previous Action(s): GPA & Rezoning

General Plan Designation: General Commercial, Parks/Recreation, Multi-Family Very High Density and Correctional Facility

Present Zoning: General Commercial (C-2), Parks and Open Space (POS), Mixed Use (MXD), and Multi-Family Very High Density (R4), all with an "S" Zone Overlay

Existing Land Use: Abandoned golf driving range and vacant land

Agenda Sent To: Applicants and Owners (as noted above)

PJ#3160

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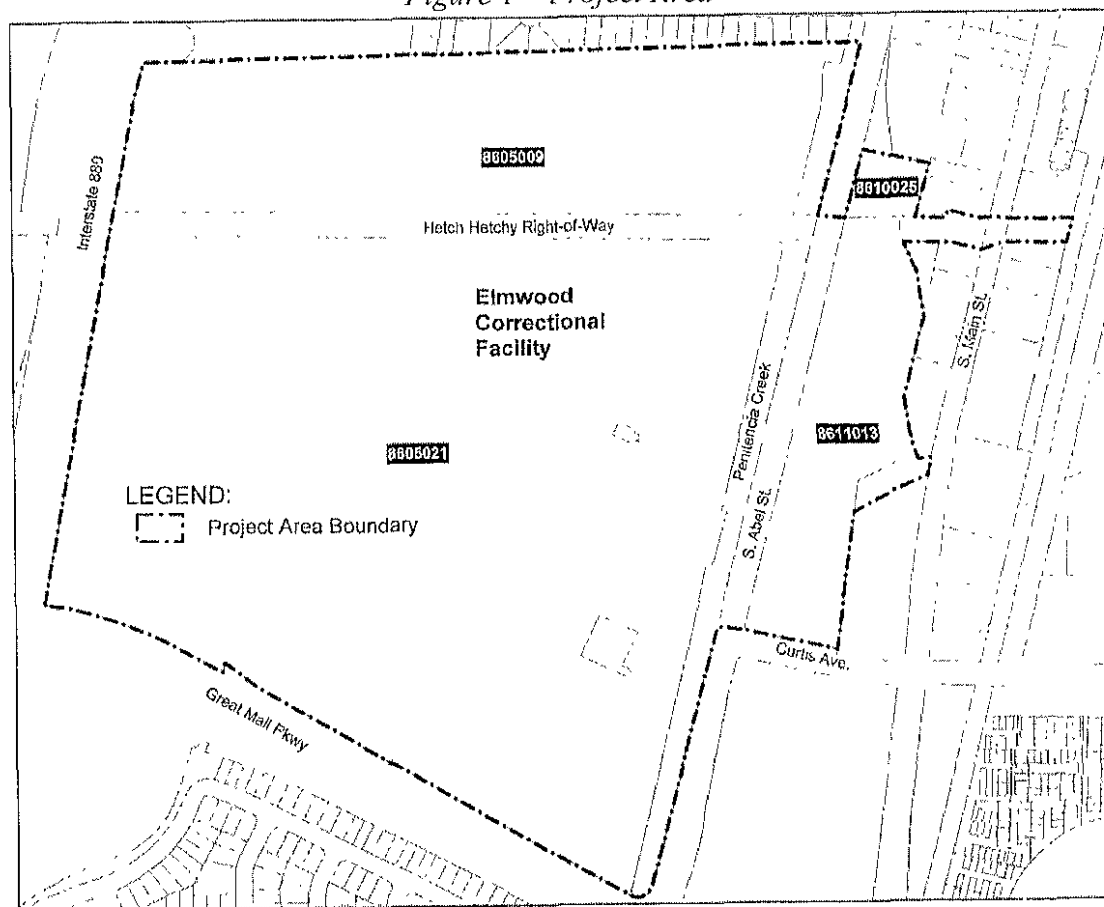
BACKGROUND

Project Area

The Project Area encompasses 126± acres located along both sides of South Abel Street, north of Great Mall Parkway and includes 5.6 acres of Hetch-Hetchy right-of-way between I-880 and the Union Pacific Railroad tracks east of South Main Street. The remaining 120± acres are currently owned by the County of Santa Clara and are divided into the following Assessor Parcel Numbers (APN):

- ❑ APN 8605021: Elmwood Correctional Facility and vacant land – 82 acres
- ❑ APN 8605009: Abandoned driving range and vacant land – 28 acres
- ❑ APN 8611013: Vacant land – 9.7 acres
- ❑ APN 8610025: Cracolice building site (temporary Senior Center) – 1 acre

Figure 1 – Project Area



Land Use History

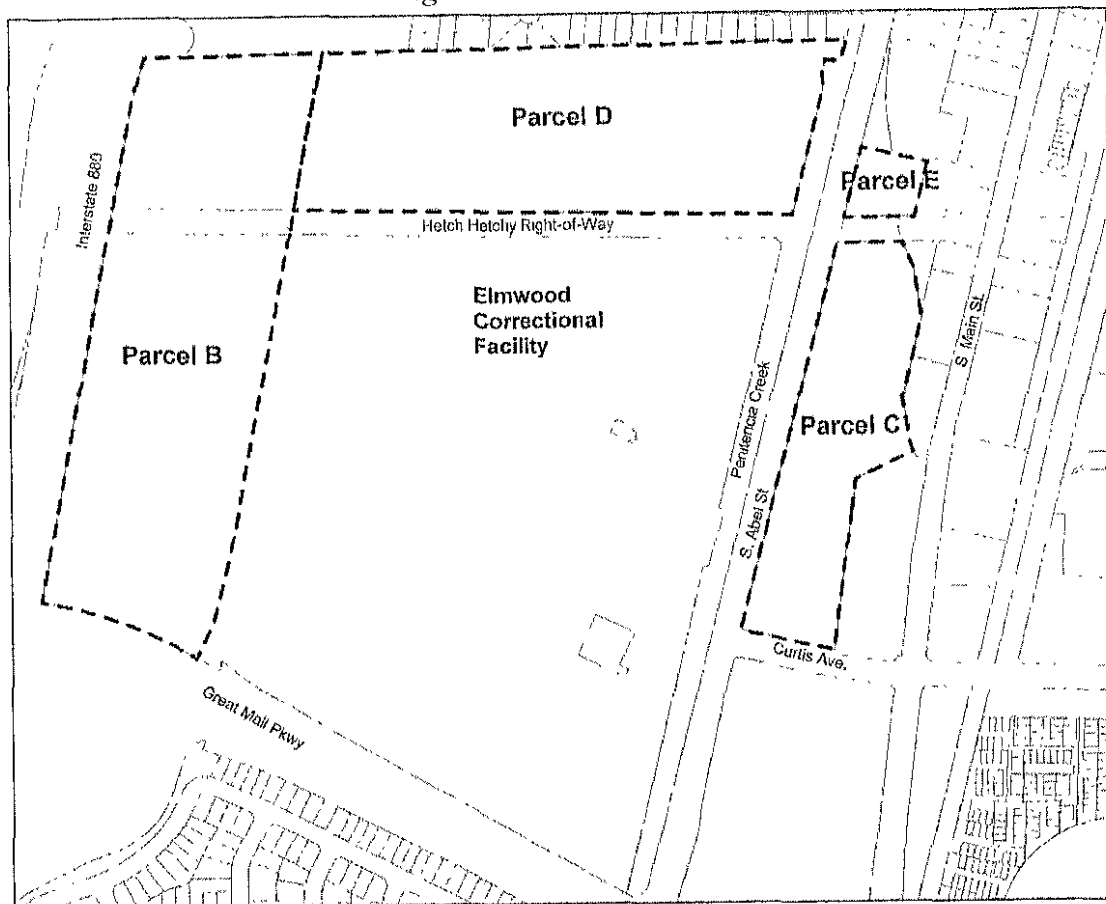
In 1994 the City completed a comprehensive review of potential housing sites to increase its housing supply as part of the update to the General Plan Housing Element. Over 40 acres of Santa Clara County surplus property around the Elmwood Correctional Facility (Parcel C, 17 acres of Parcel D and the 16 acre parcel which now contains the Monte Vista Apartments south

of Curtis Avenue) was identified for potential housing as part of that effort. In 1995 the City Council approved General Plan amendment No. 1995-2 which changed the land use designation of the potential housing sites, including the identified County surplus property, from non-residential to residential uses. In 1996 the City and Bridge Housing entered into a purchase agreement with the County for the 16-acre parcel located south of Curtis Avenue to construct 306 apartment units, known now as the Monte Vista Apartments.

In March 2002 the Council's adoption of the Midtown Specific Plan and the related General Plan amendments changed land use designations of the remaining vacant/underdeveloped County surplus properties (Parcels B, C, & D) as follows:

- Parcel B – Highway Service to General Commercial
- Parcel C – Multi-Family High Density to Multi-Family Very High Density
- Parcel D – Industrial Park (western 10± acres) & Single Family Moderate Density (eastern 17± acres) to General Commercial (western 17± acres) and Parks & Open Space (eastern 10± acres)

Figure 2 – Parcel Labels



Redevelopment Agency Actions

In late 2002 the County informed the City of their intention to develop their remaining surplus property to maximize their revenue from these properties. The County requested financial assistance from the Milpitas Redevelopment Agency to lower the very high site development costs of the properties due to the lack of infrastructure and constrained circulation. In January 2003 the Redevelopment Agency authorized staff to enter into negotiations with the County to develop an agreement for the development of the surplus properties.

In May 2003 the Milpitas Planning Commission found that the City acquisition of Parcel C, 21± acres of Parcel D, and the parcel containing the Cracolice building (currently the temporary Senior Center) was in conformance with the General Plan. In June 2003 the Redevelopment Agency approved a Purchase and Sale Agreement with the County for those properties listed above (a copy has been provided in the Commission's project binder).

In May 2004 the Redevelopment Agency / City Council jointly authorized the execution of a four-party Memorandum of Understanding (MOU) between KB Home, the Milpitas Redevelopment Agency, the City of Milpitas, and the County of Santa Clara to provide affordable housing for the Elmwood Residential project (a copy has been provided in the Commission's project binder). The MOU requires the development of 110 deed-restricted, moderate-income home ownership units (85 condominium units, 15 town homes, and 10 single family detached units) and a contribution of \$6 million towards the development of a 98-unit, low-income senior housing project proposed across from the new library site on North Main Street.

Applications Submitted

PERMIT	DESCRIPTION
EIA NO. EA2003-7 Submitted pursuant to the California Environmental Quality Act (CEQA).	Environmental Impact Report
GENERAL AND SPECIFIC PLAN AMENDMENT (GP2003-1) Submitted pursuant to California Government Code Section 65350.	Amend the General Plan and Midtown Specific Plan land use designations of Parcel E and portions of Parcels C & D
ZONING MAP AMENDMENT (ZC2003-2) Submitted pursuant to Section 62 of the Milpitas Zoning Ordinance.	Rezone Parcel E and portions of Parcels C & D

PERMIT	DESCRIPTION
MAJOR VESTING TENTATIVE MAP NO. MA2003-4 Submitted pursuant to Section XI-1-4.00 (Tentative Map) and Section XI-1-30.00 (Vesting Tentative Map) of the Subdivision Ordinance.	Subdivision of land for residential, parks, and commercial purposes
PLANNED UNIT DEVELOPMENT NO. PD2003-1 Submitted pursuant to Section 54.07 of the Zoning Ordinance.	Development of 165 small lot single-family and 203 townhome units (west of South Abel Street)
SITE AND ARCHITECTURE REVIEW (SZ2003-6) Submitted pursuant to Section 42 of the Zoning Ordinance.	Development of 315 condominium units (east of South Abel Street)
USE PERMIT NO. UP2003-26 Submitted pursuant to Section 8.11 (Exceptions to R4 Standards) and Section 57 (Use Permits) of the Zoning Ordinance.	Deviation of development standards for the east side of South Abel Street (R4), including usable open space per unit, number of floors and setbacks.

LAND USE CHANGES - GENERAL PLAN, SPECIFIC PLAN, & RE-ZONING

Description

KB Home South Bay, the applicant, is seeking approval to construct 683 new residential units and create approximately 7 acres of additional public park space within the project area. To enable this project the applicant is requesting changes to the General Plan/Midtown Specific Plan land use designations and the zoning designations on portions of Parcels C & D. The City will be acquiring Parcel E as part of the Purchase and Sale Agreement and has initiated the request to change the land use and zoning for that parcel to reflect how it would be used in the future. Figure 3 below illustrates the current land use and zoning designations and Figure 4 illustrates the proposed designations.

Figure 3 – Existing Land Use

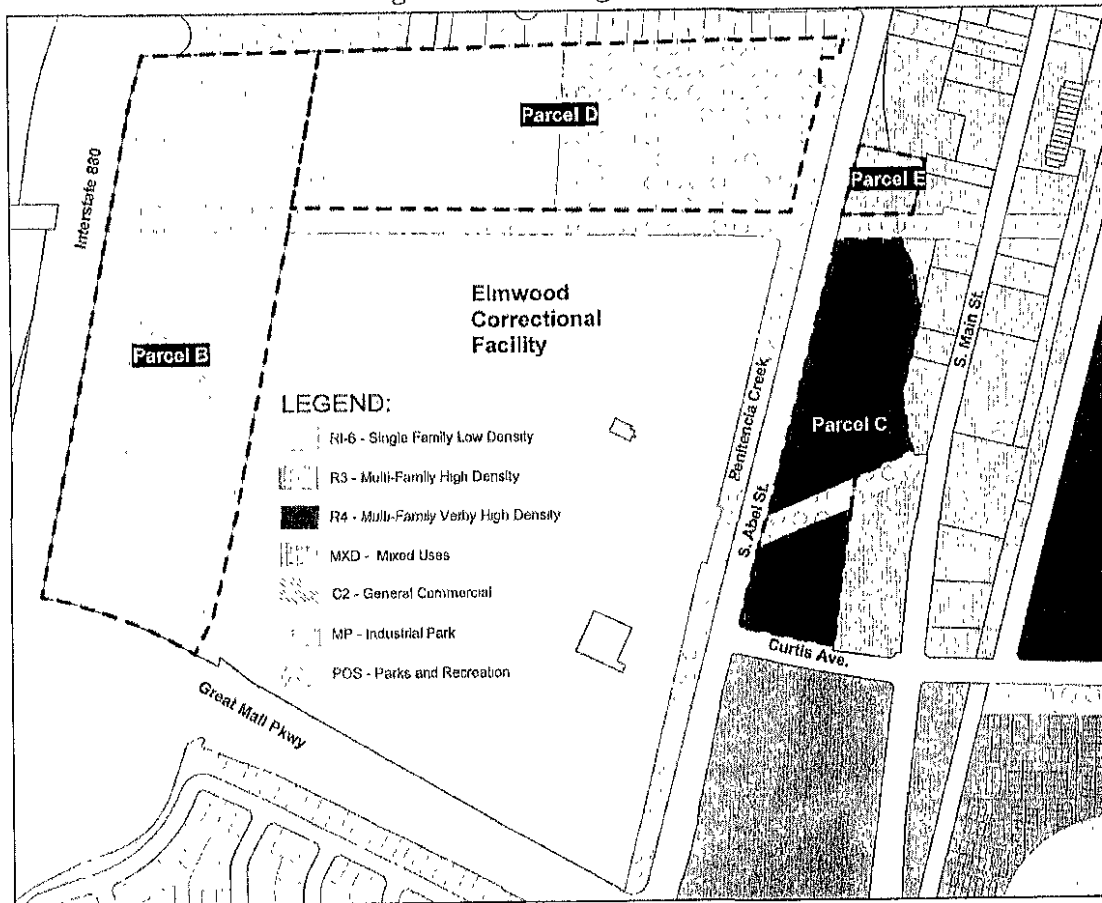
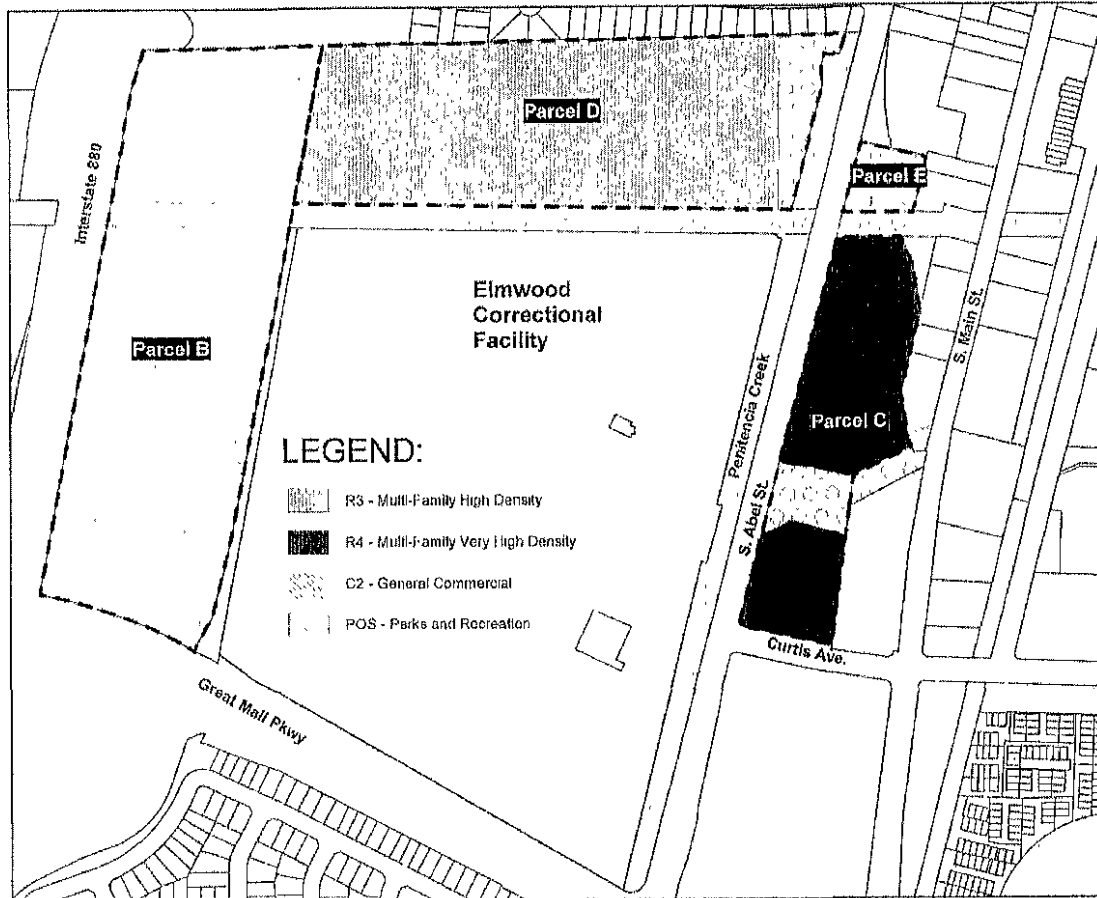


Figure 4 – Proposed Land Use



The following table summarizes the net result of the land use changes being proposed within the project area:

Land Use / Zoning	Existing (ac.)	Proposed (ac.)
General Commercial	33.71	23.50
Parks & Open Space	16.67	8.14
Multi-Family Very High Density (R4)	8.81	8.46
Multi-Family High Density (R3)	0.00	19.27
Mixed-Use	1.07	0.00

Analysis

Parcel D is one the largest vacant parcels within the Midtown area and therefore plays a very important role as a catalyst site for further growth within the vicinity. The proposed density on Parcel D is 17.5 dwelling units per acre which would provide an additional 368 units towards the region's housing shortage. The new housing stock in the residential areas of Midtown will be attached multi-family units at a minimum density of 31 dwelling units per acre. With this

proposal KB Home would diversify the housing stock and provide affordable single-family detached units and traditional townhouse units within the Midtown Area. The project is also exceeding the City's 20% affordable housing target by providing for the creation of 208 affordable units (110 ownership units and 98 off-site senior rental units) which is 30% of the total 683 units being proposed.

The Midtown Specific Plan envisioned this site being split between commercial and park uses. The loss of 10 acres of commercial land within this area is negligible given the other commercial redevelopment opportunities that exist within the Midtown Area such as the Serra Center and surrounding commercial properties.

The proposed land use changes will result in a net loss of 8.5 acres of Parks & Open Space designated property. However, the project is creating over 17 acres of open space through a combination of 10 acres of private and 7 acres of public park and recreation areas, thereby creating more open space and recreation areas than what was originally envisioned in the Midtown Specific Plan. The replanting of the O'Toole elm grove within an interpretive historic park setting is also a significant recreational benefit to the community. While the specific long term use of the Cracolice Building (temporary senior center on Parcel E) has not been determined, the City would like to reserve the site for future recreational uses and has initiated the Parks & Open Space designation to demonstrate that commitment.

The change in land use on Parcel D from commercial to residential will not impact the existing development because the project is in close proximity to existing residential neighborhoods that have similar product types and densities. In addition, the change from commercial to residential uses in the northwest area of the project will be more compatible to the existing residential uses because commercial uses typically have other greater noise and traffic impacts than residential uses.

TENTATIVE MAP

Description

The Vesting Major Tentative Map application has been submitted primarily to subdivide the four existing parcels in the Project Area to 271 new parcels to create the new public parks, establish the project's circulation system, set the foundation for future condominium mapping, and create the new single family lots. The three commercial lots that would be created along I-880 will continue to be owned by the County of Santa Clara and are not part of the residential development proposal. The three commercial lots will be (from south to north) 10 acres, 6.5 acres and 7 acres arranged in a north to south layout. The lots were included within the application only to enable the County to complete lease agreements in a timely fashion with the auto dealerships that are interested in locating on those parcels.

In addition to the new 271 parcels, the applicant will subsequently create parcels for purposes of the condominium project (the creation of condominium units). This would include the condominiums on the east side of South Abel Street and the townhouses on the west side of South Abel Street. To ensure conformity with City and State standards for condominium creation, **staff recommends** the final map for the condominium units be recorded prior to issuance of any building permits for these two portions of the project.

PLANNED UNIT DEVELOPMENT - PARCEL D

Description

Parcel D is located on the west side of South Abel Street along the northern edge of the Hetch-Hetchy right-of-way. The applicant is requesting approval to construct 165 small lot single-family homes, 203 townhouse units, and approximately 1 acre of public park on this 21-acre site. The single-family lots would all be approximately 2,000 to 3,500 square feet in size. The single-family homes would range in size from approximately 1,775 to 2,550 square feet and come in a variety of bedroom configurations (3 to 5). The townhouses units would range in size from 1,060 to 1,775 square feet and would have two or three bedrooms.

Site Layout and Access

The proposed site layout will include commercial uses on the west portion of the site (adjacent to Interstate 880) with residential uses to the north, extending to South Abel Street. The park areas will be immediately south and along the eastern edge of the residential uses. There will be a new public road that will extend north from Great Mall Parkway, up through the site and connecting to one of two accessways into the residential portion of the site. The commercial lots will have access off of this new north-south road. There will be improvements to an existing private road that extends east to west (connecting South Abel Street and new north-south public street) along the northern boundary of the correctional facility which will provide another access for the site. The other access to the residential uses will be at the eastern end of the site with a new public street extending westward from South Abel Street. With one access each from the east and west, both ends will be gated.

Within the gates, will be a main spine road that connects the west and east access points. The main spine road will be at the northern edge of the site and will provide a buffer to the existing residential neighborhood. There will be two streets that connect to the inner roads of the site. Generally the site and buildings are laid out in long, looping north-south roads, with driveways and garage access on each side of the streets. The length of the looping driveways extend approximately 400 feet deep into the project before returning back onto the secondary road. The arrangement of buildings provides adequate access for the Fire Department to respond to emergencies.

Two rows of buildings will face each other with a landscaped paseo between them. The garages will be at grade level, while the paseos will be raised approximately 5 feet from grade level. There will be a single row of buildings that face onto the main spine road with rear loading garages, thus, this will provide a more traditional feel (house frontages facing the street) to the project along the main spine road.

Within the residential area, the project will contain two product types: single-family homes and townhouses. The townhouse product will be at the west and east ends of the project site. The single-family homes will be centered on the site and will make up the majority of homes that face the main spine road. A private recreation area, including a pool and recreation building is located in the middle of the site for centralized access for all residents.

Public park area will be located on the eastern portion of the site between the residential buildings and Penitencia Creek. Access to the new parks are provided from South Abel Street, the new public road, and the project site.

Parking

For this portion of the project, there will be 736 resident spaces required and 147 guest parking spaces for a total of 883 on-site parking spaces. The project is proposing 821 on-site parking spaces. As part of the overall site improvements will be new public streets that will accommodate additional parking. Twenty-six of the required guest spaces are proposed off-site on the new public streets. Bicycle parking is currently not proposed on the submitted plans. Further discussion on parking is provided in the bicycle parking section of the staff report.

Building Architecture, Colors, and Materials

The units are proposed to be built over garages. Access to the garages will be from the rear of the building at street level from alleys. For flood and building construction reasons, the applicant is building up the ground level around the buildings. The front building entries will be approximately seven (7) feet above the street grade for the single-family units and approximately five (5) feet above the street grade for the townhouse units. The applicant is providing a raised courtyard area between buildings, such that when people access the building, they will step up into the courtyard area and then into the home entries. Buildings will face each other, such that each courtyard will be shared by two buildings and each alley will be accessed from two buildings.

To accommodate the raised courtyard, the buildings will have a retaining wall or an earthen mounding condition around the building. Retaining walls will vary in height from 5 to 7 feet in height and sometimes will be 1.5 feet with an earthen mound to the finished paseo elevation. In certain areas, a safety fence will be located on top of the retaining wall.

Because the majority of the buildings are oriented in a north-south direction with respect to front door and garage entrances, the ends (sides) of the buildings front the internal streets. This makes these elevations highly visible. Thus, the applicant is providing multiple and enhanced “end” elevations that can be interspersed throughout the project to give the rows of streets their own identity. This will help add variety to the project and give the appearance of a varied and interesting neighborhood.

Both the single family and townhomes will have a Spanish and Spanish Monterey architecture. The architecture proposed will include “S” style and flat (wooden shingle appearance) concrete tiles for the roof. Materials used on the buildings include wood, plaster, tile, brick veneer, clear glass, and metal accents. To enhance the appearance of the buildings, the applicant is proposing to add architectural elements including metal and tile accent pieces, wooden shutters and trellises, railings, balconies, and decorative foam trim.

The single-family homes will have nine different color palettes based on earth tone colors, including browns, grays, reds and cream colors. The single-family homes will include concrete tile roofs pitched with a 4:12 and 5:12 slope. The colors of the roof will be various shades of reds, browns, and grays (earth tone colors). The building exteriors will be stucco and will be painted lighter earth tone colors with stone veneer at the base of the building.

The townhouses will have six different color palettes based on earth tone colors, including browns, grays, reds and cream colors. The townhouses will include concrete tile roofs pitched with a 4:12 slope. The colors of the roof will be various shades of reds (earth tone colors). The building exteriors will be stucco and will be painted lighter earth tone colors.

In the townhouse buildings, each unit will have its own doorway entrance that will step up from the courtyard. Each entrance will have architectural features to “announce or accentuate” the entries, including pop-out projections over the doorway and arches. Recesses and pop-outs of the building will help to provide architectural interest and variety to the elevations of the otherwise long buildings. In addition, to provide distinction to each residence, the applicant has given each unit its own identity by varying the architectural package of each unit to make it distinctive from its next door neighbor. This is accomplished through using different doors, windows, shutters, lighting, and railing package and varying the garage door style at the rears of the building.

Private Recreation Facilities

The applicant is proposing a recreation area at the center of the project. It will contain open space, pool, spa, play equipment and a recreation building. The recreation building will contain bathrooms, kitchen and a multi-purpose room. The architecture of the building will match the residential buildings on the site and will reflect the similar Spanish style, with concrete tile roofs, stone veneer base for the building and earth tone colors.

Site Grading Improvements

For purposes of drainage of the site and to keep the new units outside of the flood zone, the applicant is raising the entire site anywhere from 3-4 feet higher than the existing elevation. To accommodate the increased fill, the applicant will have a retaining wall that varies up to 3 ½ feet at the northern boundary of the site and will have retaining walls that vary to 7.5 feet at the southern end of the site.

In addition, as mentioned previously, there will be additional fill on the site to accommodate the raised paseo's located between the buildings. In these locations, at the sides of the buildings, there will be sloped areas and retaining walls up to 4 ½ feet in height.

Parcel D Development Standard Comparison

R3 Development Standards	Proposed Design	
	Single Family	Townhouse
Height – 3 ½ stories or 35 feet	Varying up to Approx. 46 feet	Approx. 38 feet
Density – 12-20 DU/Acre	17.5 DU/Acre	
Affordable Housing – 20% minimum goal	30%	
Lot width – 70 feet	Varies, 30 to 70 feet	Varies, 200+
Front yard–20 feet	Varies, 7 to 10 feet	Varies, 2 to 12 feet
Side yards – one side 12 feet, total of 30 feet	3 ½ to 4 feet	Varies
Rear yard – 40 feet	4 feet	Varies 12 feet
Parking – two (2) per unit and 20% guest parking	2 covered spaces for each unit and 15% guest parking (including on and off-site)	2 covered spaces for each unit and 15% guest parking (including on and off-site)

R3 Development Standards	Proposed Design	
	Single Family	Townhouse
Bicycle Parking – 5% of all required automobile parking	None	None
Open Space – 25% of total site	38%	
An average of 200 square feet of usable open space per unit and 30% shall be contiguous to the individual unit.	Over 5 acres and an average of 144 square feet contiguous to each unit.	Over 5 acres and an average of 84 square feet contiguous to each unit
Utilities – under grounded and screened from views	Not explained	Not explained

Development Standard Deviations

The following summarizes the variations from the R3 development standards that the project is proposing:

- ❑ The project is exceeding the maximum allowable height for the R3 zoning district of 35 feet. The single-family homes are proposed to vary up to 46 feet and the townhouses will be up to 38 feet. Contributing to the height is amount of fill that is being added to the site (approximately 3-4 feet) to raise the buildings out of the flood plain. In actuality the townhouses will be within the allowed height requirement when measured from the new ground level (35 feet). However, even when the fill is taken into consideration, the single-family homes will still be exceeding the height limitations.
- ❑ To minimize any conflicts with the existing single-family residential neighborhood to the north, staff is recommending conditioning the project to minimize the use of the top story homes in areas that are nearest to the existing community.
- ❑ As proposed, the homes/units are not arranged in a typical fashion, they cluster around a paseo with a driveway at the rear. To accommodate this layout, lot widths and setbacks do not meet the strict application of the R3 zoning district.
- ❑ In addition, because of the compact nature of the single family buildings, they are not the traditional R3 building types (typically multi-family buildings), thus, meeting the development standards and meeting the density of the zoning district becomes problematic.
- ❑ The proposed project does not meet the 20 percent guest parking requirement, however, Midtown Plan Specific Plan has a guest parking requirement of 15 percent which is more in keeping with this compact infill housing project.

The project is able to meet the 15 percent guest parking requirement by using new public street parking that is adjacent to the project site (as noted in the previous parking section). Because the area proposed to be used along the new public streets is along the project frontage, within close proximity of the site, it is reasonable to allow these spaces to be used as guest parking.

The applicant is requesting a PUD for flexibility in meeting otherwise applicable R3 development standards for the single family and townhouse units on Parcel D.

PUD Findings

A Planned Unit Development may be granted providing the following findings can be made by the City:

1. *The proposal will result in an intensity of land use no higher than and standards of open spaces at least as high as permitted or specified otherwise for such development in the General Plan, Zoning Ordinance and Subdivision Ordinance.*

As proposed, the project is not proposing a higher density than allowed in the General Plan, Midtown Specific Plan and the R3 zoning district. It is proposing a density of approximately 17.5 units per gross acre, the R3 zoning district allows densities between 12-20 units per gross acre. In addition, the applicant is meeting the open space requirement for a project of this size within the Midtown Plan. Additional discussion on open space is provided further within the staff report .

2. *The proposal will not create traffic congestion pursuant to the California Environment Quality Act (CEQA), or any impacts will be mitigated by traffic improvements, or if the impacts cannot be mitigated, necessary findings shall be made by the City pursuant to CEQA.*

The proposal will have associated traffic impacts. Some will be mitigated, others cannot be mitigated. Mitigation measures are proposed where possible and the City Council will have to make a statement of overriding considerations for the traffic impacts that cannot be mitigated. A detailed discussion on traffic impacts is provided later in the report (page 40).

3. *The maximum density shall be the upper density per gross acre as noted in the General Plan designation. In land zoned R3 an overall density of up to 40 units per gross acre can be approved if two additional findings regarding utilities and traffic can be made.*

The project is proposing a density (17.5 units per gross acre) in the upper range of the allowable 12-20 units per gross acre for the R3 zoning district.

4. *Development of the site under the provisions of the Planned Unit Development will result in a public benefit not otherwise attainable by application of the regulations of general zoning districts.*

The design flexibility provided by the PUD is allowing the project to develop this infill site in an efficient manner. By allowing deviations from the strict application of the R3 zoning district, the applicant is able to provide a more interesting product that cannot be found anywhere else in the City and provides additional housing variety to the public.

It has been City practice to accept the improvement of parkland as part of a benefit “not otherwise attainable” from the standard regulations. Typical subdivision requirements provide for only the dedication of land for parks with the City constructing the improvements. The applicant is proposing to construct the park improvements and create approximate 7 acres of new park space for the benefit of the City. In addition, the 7 acres

is more land area than would normally be required for a project of this size. Further information in regards to parks and open spaces is provided on page 33.

Another public benefit will be the provision of the affordable housing that will be associated with the project. The applicant will be providing for the creation of 208 new affordable units which is 30 percent of the units to be constructed. The number of affordable units proposed is 10 percent more than the 20 percent normally required. As required in the Midtown Specific Plan, the affordable units created on-site will be integrated into the market. This integration helps avoid the negative associations made with affordable housing.

5. *The proposed PUD is consistent with the General Plan*

The project will be consistent with the General Plan as proposed to be amended. Further information can be found in this report (page 35).

6. *The proposed development will be in harmony with the character of the surrounding neighborhood and will have no adverse effects upon the adjacent or surrounding development.*

With the PUD, the applicant will be able to provide a mix of housing units, townhouse style and small lot single-family homes. The neighborhood to the north consists of the traditional single-family homes. The smaller more dense single-family product will be more in harmony with the single-family units to the north and will be a nice transition to the higher density that is adjacent to the project site to the east, and will buffer the higher density townhouse area.

Because the site is in the Midtown area where the predominant residential zoning is Mixed Use and Multi-Family Very High density, the townhouse style product will be harmonious with the type and level of development that is expected in these two zoning districts.

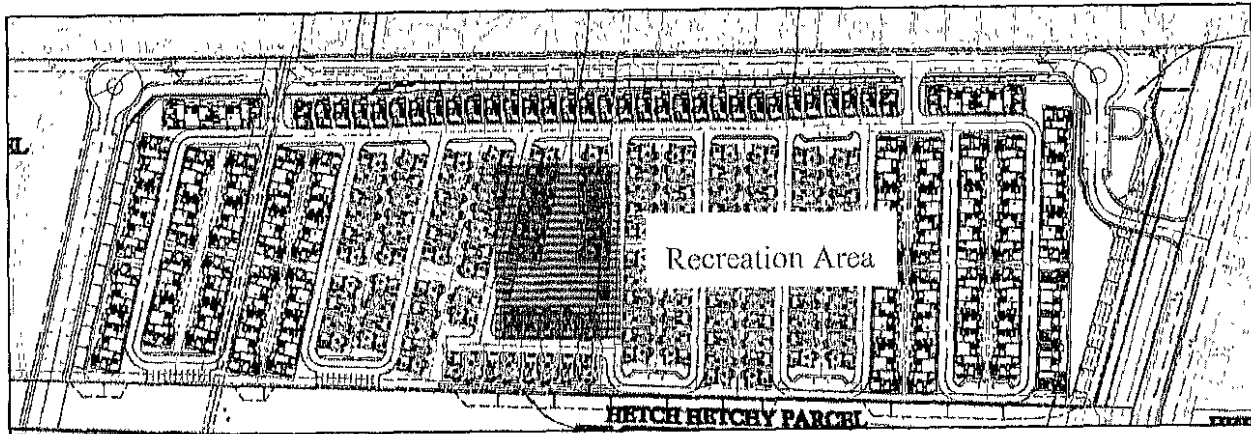
Analysis and Recommended Changes

Site Layout

The applicant has worked extensively with the City to revise and improve the layout of the site. The proposed layout was developed to maximize the number of units on the site, provide for adequate access for emergency and service vehicles, provide vehicular, bicycle and pedestrian access throughout the site, and to provide for a site plan that has variety and interest.

Because the project site is very wide, pedestrian access will be very important for residents living at the eastern and western edges of the project to get to the recreational facility located near the center of this area (see figure 5) Because the project is incorporating walkways that run in an east-west direction, *staff recommends* the applicant incorporate raised/decorative crosswalks across driveways. This will help pedestrians traverse the site as well as slow vehicles on the loop driveways.

Figure 5 – Private Recreation Area for Parcel D



It does not appear that there is any direct north-south connection between the project site and the Hetch-Hetchy park area. **Staff recommends** at least two access points (spaced evenly across the site) be provided from the project to the park area to the south.

Building Architecture

While the applicant has done a good job with the overall design of the project, **staff recommends** further improvements to the project that will enhance the appearance of the buildings and ensure longevity. The recommendations are as follows:

1. Remove the use of potted plant fixtures on the exterior of buildings, as when not maintained or used properly, it will become a negative feature of the project.
2. Use alternative, high-quality, long-lasting materials where possible.
3. The rear of the buildings shall have an increased variety of architectural treatments/elevation changes/recesses and pop outs, especially for the longer buildings as they currently have a long monotonous elevation.
4. On the sides of the buildings, windows shall be offset of each other to minimize privacy impacts.
5. Gutters and downspouts shall be painted to blend into the building.
6. Remove the “Z” design shutters. They do not match the architecture of the buildings and appear out of place. Replace with an alternative shutter design that is more in keeping with the proposed architecture.
7. Prior to building permit issuance a site layout of the homes shall be provided for review and approval by the City that shows the building end units proposed at street ends and a complete layout of the single-family homes. A mix of units shall be provided at the end of the streets to discourage repetition in the layout and appearance of the site and repetition shall also be avoided in the single-family homes.
8. The architectural treatment in plan 2 of the single family home package shall be modified to not have architectural features that are out of place and disharmonious with the overall building architecture.

9. A complete call out of materials used for the project shall be provided on plans.
10. A minimum roof eave of six (6) inches on all buildings.

Recreation Building

The applicant is proposing an approximate 800 square foot recreational building to serve the west side of South Abel Street that will house bathrooms, the pool equipment, a kitchen, and a multi-purpose room. Staff has concerns with the small size of the building, relative to the 368 units being proposed for the project. Staff especially has concerns with the approximate 450 square foot multi-purpose room/lounge. Based on the strict building code that allows 1 person per 7 square feet, this room could hold up to 65 people. Thus, this room could only accommodate approximately 20 percent of the residents for events such as homeowner association meetings. To ensure that this space can be used effectively and in a manner that can adequately accommodate HOA meeting, parties, and other gatherings, **staff recommends** more square footage for the building and a larger multi-purpose room.

Bicycle Parking

While the R3 zoning district does not have bicycle parking standards, the project is located within the Midtown Plan area. Policy 4.18 of the plan states that residential development should include bicycle parking that is equal to 5% of the overall vehicular parking requirements. Thus, **staff recommends** the applicant provide bicycle parking at the recreation area and within the private garage of each unit.

Landscaping

One of the development guidelines for the Midtown Plan is the use of permeable materials for projects. Permeable materials have benefits that include permeability for stormwater, as well as providing a different look and feel over the standard concrete paving. To comply with Midtown development standards and increase the permeability of the site **staff recommends** the applicant use permeable paving throughout the site, at a minimum at locations that are used as gathering places and points of pedestrian intersections.

The Midtown guidelines recommend that unit pavers be used for walkways throughout the site. Incorporating unit pavers adds interest to the sidewalks and provides some infiltration of stormwater into the ground. As such, **staff recommends** that unit pavers be interspersed along walkways throughout the site and at key intersection points and gathering places. A clear separation shall be provided to delineate landscaping and automobile use, thus, **staff recommends** that curbing shall be used to separate driveway and parking areas from landscaping.

The applicant is proposing 15 gallon and 24 inch box tree specimens on the site. To provide a landscape that looks as mature as possible and reach full-growth quicker, **staff recommends** the applicant use 24-inch box specimens throughout the site.

Additional **staff recommendations** in regards to landscaping include:

- ☐ Structural (amended) soil shall be used for all landscaping in the public right-of-way.
- ☐ All landscape structures shall be of long lasting and high quality materials. Untreated wood shall not be used.

- All ground transformers, utilities and mechanical equipment shall be located underground or shall be screened from all views.

The paseos on the west side of the South Abel Street project are heavily landscaped to provide a pleasant pedestrian experience. In addition, the landscaping along the periphery of the west side will serve a dual purpose of providing greenery, while also serving as a buffer from neighboring uses.

In the driveways, landscaping is provided where feasible, through the use of planters between garage doors. However, plantings are not provided between garage doors behind the townhouse product. To provide additional greenery and break up the long rear elevations of the townhouse buildings, *staff recommends* that landscape areas be provided between the garages of the townhouse building similar in style to what is proposed behind the single family homes and should include trees and shrubs.

The applicant is also proposing the use of potted plants as architectural complements to the project. Staff is concerned that the residents may, over time, choose to not maintain or use the pots for plants. If this were to occur, it would degrade the appearance of the buildings and the site in general. To prevent this from occurring, *staff recommends* the applicant not use potted plants unless it will be maintained by the Homeowners Association (HOA).

The applicant is proposing wooden privacy fencing that would be located throughout the site. Staff is concerned with the long-term durability of a wooden fence, to ensure that it lasts and remains attractive, *staff recommends* the use of alternative materials that are long lasting and of high quality where possible.

While the applicant has done an overall good job of incorporating trees throughout the site, staff has noticed areas where additional trees should be provided. To maximize the amount of trees on the site and benefits they bring (shade, greenery, appearance) *staff recommends* the applicant provide trees at the northern end of the “block” for all four rows of townhouses. In addition, provide trees on either side of the two “sub” entrances into the site off of the northern spine road.

Between South Abel Street and the project site is Penitencia Creek that extends beyond Great Mall Parkway and beyond the northern limits of the property. Sited between Great Mall Parkway and the project site is the Elmwood Correctional Facility. To screen the correctional facility from South Abel Street and to improve the creek so it does not continue to be a waste area that will not complement the project, *staff recommends* the applicant improve the area between the western levee of the creek and the property boundary from Great Mall Parkway to the northern limits of the project site. The improvements shall complement the project and planned streetscape improvements on South Abel Street.

The applicant is proposing a new bridge that will connect the project to South Abel Street. Details of the bridge have not yet been submitted to the City. The bridge design is important, as it will provide visual cues that will connect both the project and South Abel Street with each other. In addition, with the improvements that are currently in progress, it is an opportunity to design a bridge that will complement not only the project, but the work that is being done on South Abel Street. Thus, *staff recommends* the applicant submit a bridge design that complements both the project development and the new Abel streetscape.

Walls and Fences

As part of the project are many fences and walls. Perimeter walls are proposed on both the east and western portions of the project. The perimeter walls proposed are solid, wooden six-foot tall fences. The perimeter wall on the west side of South Abel that borders the existing residential property is proposed to be 10 feet tall, to address privacy and noise concerns expressed by this community. Because of the height of this wall, **staff recommends** the applicant incorporate vertical elements or other decorative designs in the wall to reduce the long monotonous elevation that the wall will create. **Staff recommends** to help suppress noise and ensure longevity of the fence, that the wall be constructed using high quality, long lasting materials such as a concrete masonry wall. In addition, **staff recommends** that all perimeter fencing for the entire project be of solid construction and be long lasting and high quality, no wood is to be used.

To the south of the Hetch-Hetchy, the applicant is proposing an 18 foot tall wall to act as a screen and buffer of the Elmwood Correctional Facility from the residential and park space. Because of the height and length of the wall, **staff recommends** that landscaping be used on both sides of the wall to soften the visual impact of the wall and to prevent graffiti, the use of vertical (ex. pilasters) and horizontal elements be incorporated into the wall to break up the long monotonous edifice.

The design of the west side of the project will incorporate raised paseos for entry into the residences. Because of this design feature there will be retaining walls throughout the site, that will vary in height from 1.5 feet to 5 feet to 7.5 feet. To soften and improve the appearance of these retaining walls, **staff recommends** in any location where there is a retaining wall that exceeds 4 feet in height, the wall shall contain decorative features in its design or shall incorporate landscaping in front of the wall to soften the views. In areas where the landscape area fronting the wall is narrow (less than 3 feet) a lattice with climbing vines shall be incorporated into the design.

To ensure that all walls and fences on the site do not impact traffic line of site at driveways, **staff recommends** any wall be stepped down in height as it approaches any cross street.

Drainage

The site is located in an area that accommodates waters from the south and allows it to pass through the site as it continues its flows to the north. In addition, the site is located in a known floodplain. Because of this, the design of the site had to ensure that the project would not worsen the flood impacts onto existing developments. Part of the onsite solution was to create flow areas where the same amount of flows could pass through the site as it would if it was not developed. To accommodate the flows certain portions of the site are depressed. In addition, to ensure that future homes are located out of the flood plain and not subject to flood insurance, **staff recommends** the homes be located one foot above the base flood elevation (BFE). To ensure that the project does not impact any surrounding development, the applicant is required to comply with mitigation measures as identified on page 43 of this report.

PUD Conditions

Part of the appeal of a Planned Unit Development is the uniformity and consistency of the project, which also helps to maintain property values and overall appearance of the site. To

maintain the consistency of the development over time *staff recommends* the following conditions of the PUD:

1. No building additions or accessory buildings shall be allowed throughout the PUD portion of the project.
2. Re-roof materials shall be limited to concrete tiles.
3. Building color changes shall be to the approval of the Planning Division.
4. Any exterior building modifications shall be to the approval of the Planning Commission.
5. No garage conversions shall be allowed.

“S” ZONE & USE PERMIT APPLICATIONS – PARCEL C

Description

Parcel C is located on the east side of South Abel Street between Curtis Avenue and Parcel E (Cracolice Building). The applicant is requesting approval to construct 315 condominiums in three separate buildings and approximately 1.5 acres of public park on this 9.7-acre site. The units would range in size from 880 to 1,850 square feet and would have one to three bedrooms configurations.

Site Layout and Access

The proposed site layout includes three podium style buildings arranged in a south to north direction, extending from Curtis Avenue to the Hetch-Hetchy right of way. Bisecting the buildings will be the row of Elmwood Trees and new surrounding public park. The Hetch-Hetchy area to north of the buildings will also be improved to accommodate park/trail uses.

One building will be located south of the elm tree park at the corner of Curtis and South Abel Street, while two buildings will be north of the park. For the building located at the corner of Curtis and South Abel, vehicular access will be provided off of Curtis Avenue with emergency access available through to South Abel Street. Parking will be located under the podium building as well as to the east and north of the building. Pedestrian access is provided to the public park and adjacent streets.

The two northern buildings are arranged in a north-south pattern, with parking and access roads looping around the buildings. Access to the site will be via South Abel Street with one full access driveway at the southern end and one “right in, right out” access between the two buildings. An additional “emergency only” access will be provided at the northern end of the property. In the southeast corner of the site is the proposed recreation area that will also serve the third building to the south. Access to the private recreation area will be via walkways from all three buildings. Parking will be located under the buildings and to the east and south ends of the buildings. Pedestrian access will be provided throughout the site and will connect to the park areas both north and south and to South Abel Street.

The building at the southern end will be located on its own parcel and will have vehicular access from Curtis Avenue. An “emergency only” access will be provided at the northern end of the property to South Abel Street. Parking will be below the building and on the eastern and northern ends of the site. Access to the secured parking garage will be at the eastern end of the building and will be adjacent to the solid waste facilities. Pedestrian connections will be

provided to the neighboring streets as well as the proposed park and the recreational facility to the north.

As part of the overall project proposal, street improvements will be made to South Abel Street and to the two new public roads, one that runs north from Great Mall Parkway and the other will be an east-west road from South Abel Street immediately to the south of the Hetch-Hetchy right-of-way. The improvements on South Abel would run the entire length of South Abel Street from Great Mall Parkway to Weller Lane. Improvements include a new traffic signal at the Abel entrance to Parcel C, new medians, decorative light poles, and landscaping on both sides of the street.

The public park located between the buildings would include the row of O'Toole Elms and would extend from Main to South Abel Streets. The project is proposing to remove and replant the O'Toole Elm trees. To remember and inform park users of the importance of the new elm grove an interpretive display of the history and significance of the elm trees will be included in the park, as well as a cluster of park amenities at the western end of the park. The Hetch-Hetchy area at the northern edge of the property would also be improved to provide a public park/trail that would extend from Main to South Abel Street.

Parking

For this portion of the project, there will be 618 resident spaces required and 93 guest parking spaces for a total of 711 on-site parking spaces. The project is proposing 716 on-site parking spaces (six extra guest spaces). Of the resident parking provided, no more than 40 percent will be compact spaces and is in conformance with the allowed percentage of compact spaces. Bicycle parking is currently not proposed on the submitted plans. Because the east side of the project is physically separated by the park area, each side is required to park their own building on their own sites.

Building Architecture, Colors, and Materials

The three buildings will be identical, and the two buildings to the north will "face" each other. The buildings are podium style with the majority of the units on top of the parking garage. There will be some ground floor units, but they will not extend around the entire building, they will only be on one side. The layout of the building will be floors stacked on top of each other and will have the same floor plan on top of each other. In the center will be an open landscaped courtyard. Each building will have two lobby areas that includes the elevators, garbage areas and mailboxes. The main lobby will have access from the ground floor with a staircase that leads to the second level "podium" level where it opens up into the landscaped courtyard.

The architecture of the buildings will be of a Spanish style, with the use of earth tone colors and concrete mission style tile roofing. The exterior of the building will be stucco that will have color variations to provide additional depth and variety. The architecture provides variation to height and contains various pop outs and projections, some that are functional (for patios) and some that are purely decorative.

Parcel C Development Standards Comparison

R4 Development Standards	Proposed Standards	
	South Building	North Buildings
Height - 4 stories and 60 feet	4-5 stories and height varies to 60 feet	
Density – 31 to 40 DU/Acre	32.9 DU/Acre	31.5 DU/Acre
Affordable Housing – 20% minimum goal	Overall project over 20%	
Front setback – Min. 8 ft., Max 15 ft. from back of sidewalk	Varies between 10 feet and 30 feet	
Side setbacks – 10 feet minimum	Varies, 12 to 35 feet	Varies, 17 to 35 feet
Rear setbacks – 10 feet minimum	Varies, 20 to 32 feet	Varies, 12 to 70 feet
Parking – 1 ½ covered spaces for 1 bedroom units 2 covered spaces for each 2 bedroom and greater units	1 ½ covered spaces for each 1 bedroom unit 2 covered spaces for each 2 bedroom unit and greater, and 15 percent for guest parking, all located on-site	
Bicycle Parking – 5% of all required automobile spaces	None	
Open Space – 25% of total site	0.78 acres, .70 acres required	2.47 acres, 1.64 acres required
200 square feet of usable open space per unit	Varies, 70 to 152 square feet	
Utilities – underground and/or screened from views	Not explained	

Private Recreation Facilities

For the three condominium buildings the applicant is proposing a recreation area behind the middle building. A pedestrian connection is provided from the southern building, across the proposed park and into the recreation area. Amenities include a playground, open space, recreation building, pool and spa. The 2,600 square foot recreation building will include bathrooms, a multi-purpose room, kitchen, fitness room and pool equipment.

Landscaping (PUD and S-Zone Application)

Because of the high-density urban character of the project, landscaping is not provided in the same way as it is provided in suburban developments where large swaths of green, open space is common. Vines, planters, tree grates, and containers are heavily used to provide greenery and soften hard architectural edges. Landscaping is provided wherever possible in open space throughout the site. In addition, in the condominium project, additional landscaping is provided in the landscaped courtyard area that is surrounded by the building structure.

The trees used on the site are broadleaf and deciduous and are located throughout the site in areas that can accommodate the growth. In addition, landscaping that is proposed along South Abel Street will be harmonious with the new treatment that is being provided as part of the larger South Abel Streetscape improvements.

Use Permit

Use Permit Findings

Any approval of a Use Permit requires the following findings:

1. The proposed use is consistent with the Milpitas Zoning Ordinance.
2. The proposed use is consistent with the Milpitas General Plan.
3. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

In addition to the above findings, two additional findings are required to be made prior to approval of any exceptions to the development standards for an R4 project in the Midtown Area:

1. The exceptions meet the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping, and site planning integrity of the proposed development.
2. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard.

Development Standard Variations

Pursuant to Section 8.11 (Exception to Standards) of the R4 district, exceptions to certain development standards may be approved through the approval of a Use Permit in accordance with Section 57 (Use Permits) of the zoning ordinance.

The applicant is requesting the following three (3) exceptions for the east side of South Abel Street, as follows:

1. An exception to the maximum number of stories from four (4) to five (5).
2. Exceed the maximum allowable front yard setback from 15 feet to approximately 30 feet.
3. An exception to the 200 square feet of usable open space requirement for each dwelling unit.

The following sections explain how these findings can be made for the proposed project, as conditioned.

Building Stories

The R4 district allows buildings to be up to four (4) stories high and no more than 60 feet in height. The applicant is requesting an exception to this standard to allow a fifth level in certain portions of the condominium (podium) buildings on the east side of South Abel Street.

While the applicant is requesting a fifth level in the buildings, the building height will not exceed 60 feet. Staff feels that the height of a structure is more visually significant than the number of stories. It is the building height that has impacts on privacy, light, and blocking of views. The allowance of the fifth floor will also allow the applicant to meet the density requirements of the

district while having an additional benefit of a more compact building footprint which will free up more open space. Thus, *staff supports* the request because it is not exceeding the height limitations in the district and will allow more units in the building allowing the project to meet the R4 density minimum and provide more open space.

Setbacks

The applicant is requesting a deviation for the front yard setback for the southern-most podium building, located at the corner of South Abel Street and Curtis Avenue. The request is for the setback along Curtis Avenue. The setback proposed ranges from 10 to 30 feet. The maximum setback allowed is 15 feet from the back of the sidewalk.

The applicant is proposing this setback because Curtis Avenue does not run parallel with the building. The building has a clean box/square shape with ends running perpendicular to each other. To meet the setback requirement the building design would have to be modified to follow the shape of Curtis Avenue. This would create an odd shaped building and would create problems for the internal layout of the building and most likely create spaces that would not be useable.

To keep the basic building shape and possibly better meet the setback requirements, the applicant could have aligned the building with Curtis Avenue, rather than South Abel, however, that would cause the building to extend closer to South Abel (possibly intrude into the 4 foot requirement) and the street view, down South Abel Street, would have odd proportions and the building would appear to be located erroneously. The applicant has chosen to align the building with South Abel rather than Curtis, which creates a better streetscape because of the length of South Abel Street compared to Curtis Avenue and because there are two additional buildings further north. Having all three buildings in line with each other creates a pleasant visual scene down South Abel Street. In addition, keeping the building located as proposed reduces potential unusable space and oddly shaped units, thus, because of all the reasons previously mentioned, *staff recommends* granting this exception.

Usable Open Space

The proposed project is also not able to meet the requirement for 200 square feet of usable open space for each unit. However, all of the open space provided, divided by the number of units will equate to more than 200 square feet of usable open space for each unit. The difficulty in incorporating 200 square feet for each unit is that the dimensions are a function of unit width. Similar to other high density projects that have come before the City, to create 200 usable space for each unit would require a balcony or patio space 20 feet by 10 feet or 34 feet by 6 feet. The average width of unit is anywhere between 28 and 50 feet wide. While this could be accomplished on some of the units, on others it would extend almost the entire length of the unit. Balconies this large would diminish the courtyard areas and detract from the overall design of the project. In addition on units that are 1,000 square feet or less, this would require a balcony/patio that is 20 percent of the unit space.

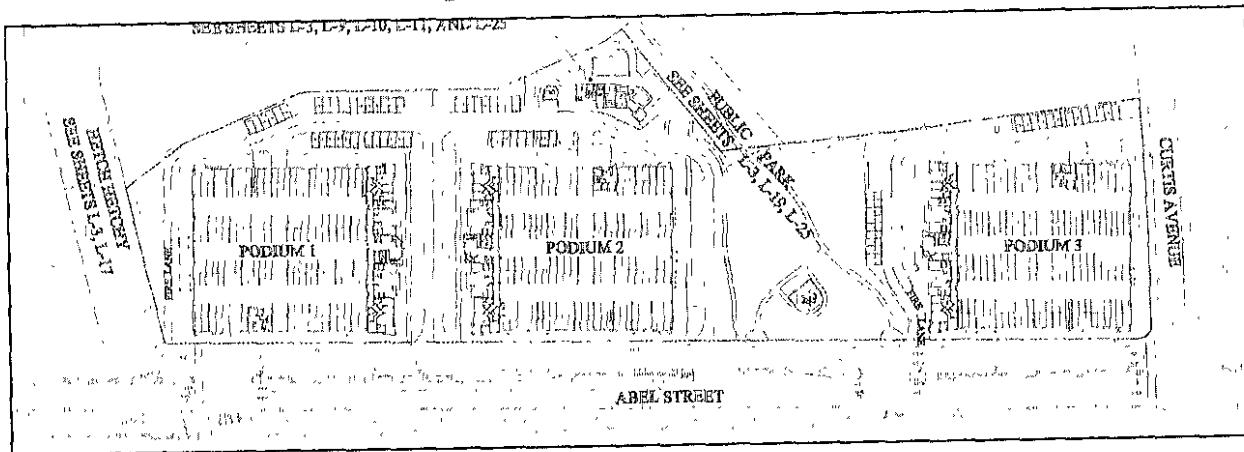
The applicant has done a good job in designing patios and balconies that allow ample open space as some units have 150 square foot balconies. The smallest units would have no less than 70 square feet. Because the project as a whole meets the 200 square feet per unit of usable open space and each unit has some usable open space through either a balcony or patio, *staff recommends* granting of this exception.

Analysis and Recommended Changes

Site Layout:

The applicant has worked extensively with the City to revise and improve the layout of the site. The proposed layout was developed to maximize the number of units on the site, provide for adequate access for emergency and service vehicles, provide vehicular, bicycle and pedestrian access throughout the site (see figure 6).

Figure 6 – Site Plan for Parcel C



Modifications that *staff recommends* are as follows:

1. To provide an improved connection to the recreation area from the podium buildings, the parking garage immediately to the east of the middle podium building should be moved further north to allow a pedestrian connection across the access road. This will prevent pedestrians from having to cross two driveways to access the recreation area.
2. To encourage walkability, pedestrian walkways shall be provided that connect the buildings to South Abel Street. There is an inconsistency in the plans, in that the floor plans show an exterior access on the buildings fronting South Abel Street, but no pathway is provided on the landscape plans.
3. Complete the pedestrian connection from the southern podium building to South Abel Street. There is a walkway on the plans that dead ends approximately 20 feet from South Abel Street. Complete this walkway to allow pedestrian use to South Abel Street and force pedestrians into landscaped areas.
4. Provide at least one car wash area for each portion of the project for resident use. This car wash area shall be sloped and drained to the sanitary sewer system.
5. Due to problems associated with gates and potential queues extending into South Abel Street, no gates shall be allowed for the eastern portion of the project. Staff is already supporting gates into the podium parking area, "multiple" or two layers of gating at different access points can not be supported.

Building Architecture:

While the applicant has done a good job with the overall design of the project, **staff recommends** further improvements to the project that will enhance the appearance of the buildings and ensure longevity. The recommendations are as follows:

1. Remove the use of potted plant fixtures on the exterior of the buildings, if not maintained or used properly, it will become a negative feature of the project.
2. To ensure the longevity of the project, **staff recommends** that decorative elements be constructed of high-quality, long lasting materials where possible.
3. The screening for the garage openings shall be decorative and not appear utilitarian, especially since they will be very visible from the pedestrian perspective and South Abel Street and Curtis Avenue.
4. To announce and accentuate the entry of the buildings, additional architectural embellishment shall be provided as part of the main lobby entrances.
5. A “base” feature shall be provided for the buildings to give the building better balance and to provide a better connection for the pedestrian experience, especially along South Abel Street and Curtis Avenue.
6. The proposed plans do not show the locations of any downspouts or rain gutters. As this will often impact the overall architecture of the building, plans shall be submitted that show how the downspouts and rain gutters are incorporated into the buildings.
7. In the architectural plans provided only elevations of the 6 and 8 car garages are provided, prior to any permit approval, submit the 4, 7 and 9 car garages to the City for review and approval.
8. A complete call out of materials used for the project shall be provided on plans, including the colors and materials used for the garage buildings.
9. A minimum of six (6) inches on all sloped roof eaves.

Staff has also examined the floor plans as proposed and recommends the following modifications to provide for a better living environment for future residents. None of these recommendations shall supercede any established building codes, thus, **staff recommends**:

1. Doors in the bathrooms shall not open up into the sink area, they should open into the walls.
2. Reconsider the design of the smaller washer and dryer spaces in the project. A design solution shall be provided that does not use a drain/collector pan on the floor. Incorporate the drain into the floor without using a pan.

Bicycle Parking

Per the R4 zoning standards, bicycle parking is required at a ratio of five (5) percent of all required automobile parking. Based on 711 automobile spaces required, 35 bicycle parking spaces will also be required. **Staff recommends** the applicant provide bicycle parking near the community building/pool area and to provide bicycle hooks in other areas of the site including,

but not limited to porches and covered garages. With this implemented, the project could definitely exceed their bicycle parking requirement.

Landscaping

One of the development guidelines for the Midtown Plan is the use of permeable materials for walkway and driveway areas. Permeable materials have benefits that include permeability for stormwater, as well as providing a different look and feel over the standard concrete paving. To comply with Midtown development standards and increase the permeability of the site **staff recommends** the applicant use permeable paving throughout the site, at a minimum at locations that are used as gathering places and points of pedestrian intersections.

The Midtown guidelines recommend that unit pavers be used for walkways throughout the site. Incorporating unit pavers adds interest to the sidewalks and provides some infiltration of stormwater into the ground. As such, **staff recommends** that unit pavers be interspersed along walkways throughout the site and at key intersection points and gathering places. A clear separation shall be provided to delineate landscaping and automobile use, thus, **staff recommends** curbing shall be used to separate driveway and parking areas from landscaping.

The applicant is proposing 15 gallon and 24 inch box tree specimens on the site. To provide a landscape that looks as mature as possible and obtain full growth stage quicker, **staff recommends** the applicant use 24-inch box specimens throughout the site.

Additional **staff recommendations** in regards to landscaping include:

- ❑ Structural (amended) soil shall be used for all landscaping in the public right-of-way.
- ❑ All landscape structures shall be of long lasting and high quality materials. Untreated wood shall not be used.
- ❑ All ground transformers, utilities and mechanical equipment shall be located underground or shall be screened from all views.
- ❑ A detail of the water fountain feature shall be provided to the City for review and approval.

The trees used on the site are broadleaf and deciduous. Trees are located throughout the site in areas that can accommodate the growth. Along the borders of the property is a six-foot tall boundary fence, the applicant is proposing trees and shrubs to help screen and soften the fence. In addition, the landscaping that is proposed along South Abel Street will be harmonious with the new treatment that is being provided as part of the larger Abel Streetscape improvements. The basic layout will be a planted landscape median with a sidewalk and planting areas on both sides of the street.

As part of the landscaping plan, the applicant is proposing a landscaped plaza in the center of the building footprint. The building will be built up on four sides of this open plaza area. The area will contain raised planters that double as low seat walls and includes a water fountain, benches, trellises, potted plants, and decorative paving. Because of the height of buildings and the resultant reduction in hours of sunlight available to the flora, **staff recommends** the applicant use landscaping that can tolerate a lower amount of sunlight.

Because of the small area and potential security concerns, **staff recommends** landscaping and/or fencing be used to prevent access behind the garage buildings near the property boundaries.

Walls and Fences

To ensure that all walls and fences on the site do not impact traffic line-of-site at driveways, **staff recommends** any wall be stepped down in height as it approaches any cross street. In addition, to ensure longevity of fences, **staff recommends** that all perimeter fencing for the entire project be of solid construction, long lasting, and high quality, no wood is to be used.

GENERAL ISSUES - PARCELS C & D

Lighting

The applicant is proposing lighting throughout the site that consists of a mix of streetlights and pedestrian level lighting including bollards and building lights. Staff is concerned that there are dark areas throughout the project site (ex. driveways behind the buildings), which could affect safety and security. To minimize these risks, **staff recommends** the applicant provide a more detailed isolumen (lighting plan) that ensures that the site will not have any dark areas.

To be in conformance with Midtown Development Guidelines, **staff recommends** that no low-pressure sodium lighting be used anywhere on the project and pedestrian scale lighting shall not exceed 16 feet. In addition, **staff recommends** that up lighting be used at key locations of the site, including, but not limited to, project entrances.

Because of the site proximity to existing development, **staff recommends** that light shields be used on light fixtures that are in close proximity to existing residential development to prevent light from spilling onto the neighboring properties.

Stormwater Runoff

The applicant has submitted a stormwater control plan for the site, including post construction Best Management Practices (BMP's).

Construction BMP's

To ensure that best management practices are in place during construction, **staff recommends** a stormwater control plan be submitted for review and approval by the City that incorporates the following actions to control stormwater runoff and dust during all construction activities on-site:

1. Watering all exposed or disturbed soil surfaces, at least twice daily, as necessary to eliminate visible dust plumes;
2. Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least a 2 feet freeboard level within their truck beds;
3. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles of debris, soil, sand, or other materials;
4. Suspension of all earthmoving or other dust-producing activities or equipment during periods of high winds when watering cannot eliminate visible dust plumes;
5. Apply water 3 times daily or apply (non-toxic) soil binders on all unpaved access roads parking areas and staging areas at construction sites;

6. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
7. Sweep streets daily with water sweeper if visible soil material is carried onto adjacent public streets;
8. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more).
9. Limit traffic speeds on unpaved areas to 15 mph.

Post Construction BMP's

The applicant is proposing to incorporate stormwater controls into the project. The applicant is proposing to incorporate bioswales into the project and to slope the property into pervious areas throughout the project. In addition, the applicant is proposing to use mechanical equipment to clean the stormwater runoff prior to discharge into storm drainage areas. To capture runoff from on-site structures, the applicant is proposing bubblers that will be used to capture runoff from the buildings and deposit into pervious areas for infiltration and cleaning prior to discharge.

The applicant is not proposing any type of mechanical equipment to clean the stormwater prior to discharge into the storm drain system on Parcel C (condominiums). To ensure that stormwater runoff is cleaned prior to discharge, **staff recommends** the applicant incorporate mechanical equipment to clean the stormwater runoff prior to discharge and to slope parking lot and driveways into landscaped areas where possible.

In addition to the post construction BMP's proposed by the applicant, **staff recommends** the following actions also be included in the plan:

1. Labeling and maintenance (annual inspections) of storm drain facilities;
2. Alternative materials and permeable surfaces shall be used for parking areas, driveways and walkways to improve infiltration at the site and minimize surface runoff.
3. Storm drain inlet cleaning on an annual basis;
4. Street sweeping;
5. Roof downspouts drain and flows be directed to landscape areas where possible.
6. An explanation of the drainage of the landscaped plaza area shall be included in the plans to ensure that this collected water is disposed of properly without future damage to the building

Staff is concerned that the mechanical equipment proposed is not adequate to service the entire site. In addition, no maintenance schedule is provided. As such, **staff recommends** the device be maintained on an annual basis by the future Homeowners Association and if any future study shows that one will not accommodate the entire site, an adequate amount will be located on the site to ensure that capacity is met.

Utilities

Currently the site is vacant, however, there are power lines located throughout the site. One of the policies of the Midtown Plan is to have all utilities underground. As part of the project, **staff recommends** that all existing above ground utility lines (ex. power line along the row of Elm

trees and the power line at the northern boundary of the site adjacent to the Sylvia Street neighborhood) be undergrounded. This will remove unsightly elevated lines and improve the visual appearance of the project. In addition, undergrounding the lines near the O'Toole Elm trees will prevent any future maintenance of the lines that may harm the proposed new row of elm trees.

Solid Waste Services

The applicant is proposing solid waste service for the west side of South Abel Street be similar to traditional single family service that occurs throughout the City. Service for the east side of South Abel Street will involve a modified service procedure involving a smaller "scout" truck working in conjunction with the typical large refuse trucks. While solid waste service has been discussed and preliminarily verified with the City, **staff recommends** a detailed solid waste program be submitted and approved by the City prior to any building permit issuance.

Parks & Open Space

All residential developments in the Midtown area are required to provide park and open space at a ratio of 3.5 acres per 1,000 people. Per Section 8.07-1 of the zoning ordinance, up to 43% of the park and open space requirement may be provided in the form of private recreation and open space. Based on the 683 residential units proposed the development would be required to provide a total of 7.66 acres of park and open space and could use up to 3.29 acres of private open space towards meeting the total requirement. The project would provide a total of 10 acres of usable private open space therefore the 3.29 acre credit would apply. With the private open space credit, the remaining park requirement for the project is 4.37 acres.

The project will be providing 7 acres of improved public park land which exceeds the requirement by 2.6 acres. The applicant is proposing to dedicate 2.7 acres of improved parkland to the City (1.6 acres on Parcel C and 1.1 acres on Parcel D) and construct public park improvements on 4.3 acres of the Hetch-Hetchy right-of-way. The new Hetch-Hetchy park south of Parcel D, combined with the 1.10 acre park on Parcel D, would be considered a neighborhood park, as defined in the General Plan, because it would be larger than 4 acres and contain community use facilities (such as the proposed volleyball, basketball and tennis courts). The public park areas on the east side of South Abel Street would be considered special use parks due to their size. The General Plan defines special-use parks as mini-parks, linear-parks, and creek parks or flood retention areas.

Hetch-Hetchy Constraints

Because the Hetch-Hetchy right-of-way contains large water pipes below the ground the type of amenities are limited to structures with shallow footings and no trees. The parks plans show amenities including tennis, basketball and a volleyball court, barbecue areas, benches and shelters, tables and benches and children play equipment. Discussions regarding the proposed improvements have been initiated with staff from the San Francisco Public Utilities Commission (SFPUC) but the execution of a lease is not expected until January 2005. **Staff recommends** an executed lease with acceptance of the proposed park amenities be submitted to the City prior to the recordation of the final map. If the amenities approved by the SFPUC are not in substantial conformance with the amenities shown on the project plans then the applicant will be required to submit revised park plans to the City. These revised plans shall include the same amount of

public open space and level of amenities shown on the project plans provided elsewhere within the project area.

Because this is a public park and is expected to have users that drive to the facilities, the applicant is proposing a nine (9) space parking lot at the very western end of the site. On-street parking will also be available on the new public road that will run south to north from Great Mall Parkway.

O'Toole Elms

Midtown Specific Plan Policy 3.28 recommends a public park be established within the O'Toole elm grove. However, separate arborists have concluded that the existing trees are in such poor condition that falling tree limbs, and possibly the entire tree, pose a real threat to public safety. As part of the park proposal, the applicant is proposing to remove the existing elm trees and replant elm trees to replicate the existing rows. To ensure that the new trees have the best possible chance to flourish at this location, **staff recommends** permeable paving be used near the elm trees. To acknowledge the historical importance of the trees, the applicant is also proposing to install an interpretive historic display as part of the park proposal to explain the history and significance of the elm grove.

General Recommendations

Because of the play facilities on this portion of the park and the number of younger residents that will use the park, **staff recommends** a low metal, wrought iron fence (not to exceed 42 inches) be installed along the Main and Abel Street boundaries. **Staff also recommends** that no fencing used at parks shall be of solid construction to deter criminal activities, since a solid fence could provide hiding areas. Material shall be of high quality and long lasting.

PRCRC Review

The Parks, Recreation, and Cultural Resources Commission reviewed the proposed public park areas at their October and November 2004 meetings (the October and November meeting minutes have been included in the Commission's project binder). Included as part of their review was two arborists reports (one dated March 200 and one dated March 2004) that analyzed the existing O'Toole elm trees.

Comments by the Commission include the need to provide a public restroom in the park on the west side of South Abel Street, more shade structures along the main Hetch-Hetchy parks, and concern over the loss of the O'Toole Elm tree grove. The Commission's recommendation was to save seven elm trees as identified in the 2004 arborist report (provided in the Commission's project binder) as the best prospects for protection and to remove the other elms and to replant the row of trees from existing small trees at the site or to propagate elms from seeds or scion wood collected from the grove.

To address the PRCRC concerns in regards to a bathroom facility at the park, the applicant has sited a future bathroom facility that could be installed after further investigation is done into the feasibility of bathrooms at this park site

Staff does not recommend saving the seven Elm trees for the following reasons:

1. Tree reports have continually report that all of the Elm trees in the grove are in poor conditions. The March 2004 report identified seven that would have the best prospects of preservation, but still had an overall recommendation that all trees should be removed.
2. Tree reports have identified that *no* active uses are to occur within the fall zone of any trees that are to remain. With this in place it would significantly reduce the usability of the site for active uses.
3. The seven trees identified are in critical locations, while three of the trees could be saved with only impacts on the amenities in the park, which would require relocation or loss of some of the active uses, the other four trees would have significant impacts, not only on the project, but on the City's desire to improve South Abel Street with streetscape improvements.
4. The trees, while not currently impacted by disease, have not been proven that they are resistant to disease, particularly Dutch Elm disease.
5. Replanting the entire grove would allow the entire grove to mature at the same pace, providing a more pleasing appearance. Preservation may maintain a couple of the trees in the grove, but because of the condition and age of these trees, it is inevitable that even with the best protection measures, these trees would eventually perish from old age or possibly some disease, which would create an uneven Elm grove, as the other trees will be a level of maturity when the trees are inevitably replanted.

CONFORMANCE WITH ADOPTED PLANS & POLICIES

Conformance with the General Plan

The project conforms with the General Plan density requirements; Parcel D will have an allowed density between 12-20 du/acre (Multi-Family High Density), the applicant is proposing the project density at 17.5 du/acre. For Parcel C the allowed density is 31-40 du/acre (Multi-Family Very High Density) and the applicant is proposing a project density of 31.5 du/acre for the two podiums to the north of the elm park and 32.9 du/acre for the podium to the south of the elm park.

The proposed Project is consistent with the following sections of the General Plan:

Guiding Principles:

2.a-G-2 which encourages a relatively compact form, through the use of compact development and higher densities. The project proposes high urban-type densities to maximize the efficient development of this infill site. The proposed density of the project on the west side of South Abel Street is approximately 17.5 DU/acre, if the General and Midtown Plan amendment are approved this will be consistent with the proposed General Plan designation and 31 DU/acre on the east side is consistent with the General Plan designation.

2.a-G-3 which provides for a variety of housing types and densities to meet the demands of families. The project will provide three different product types that will apply to different levels of incomes. The products will range from a one-bedroom condominium unit to two and three bedroom townhouse style units, to 3-5 bedroom small single-family units that will appeal to varying family sizes.

2.a-G-5, a park-like setting through parks, trails, and greenway system. The project includes the creation of approximately 7 acres of new park space as well as private recreation and open space areas.

2.a-G-6 which reflects the Midtown Specific plan goals, policies, and development standards and creates high-density housing. The project is proposing high and very high density housing (density between 12-20 DU/acre and over 30 DU/acre) and meets the intent of the Midtown Specific Plan.

2.b-G-1 which supports jobs/housing balance programs at the local and regional scale intended to reduce the distance needed to commute. The project is proposing 683 new housing units in close proximity to job generating uses. In addition, the project site is in relative close proximity to the existing light rail line.

4.a-G-1 which provides a park and recreation system designed to serve the needs of all residents of the community. The project is proposing approximately 7 acres of new park space with multiple amenities that will serve the future and existing neighborhood.

And Implementing Policies:

2.a-I-1 which states that new developments should not exceed the building intensity limits established in the General Plan. The proposed project does not exceed the 20 unit per gross acre maximum for Multi-Family High Density and 40 unit per gross acre density maximum of the Multi-Family Very High Density Residential land use designation.

2.a-I-2 which promotes in-fill development in the incorporated city limits. The project is an in-fill project replacing an old golf driving range and County surplus lands, which are all surrounded by existing developed sites.

2.a-I-9 which encourages preserving and maintaining the historical landmarks of Milpitas so that residents recognize that they are part of a distinctive and dynamic community. As part of the project proposal is the replacement of the row of Elm trees that make up the O'Toole Elms. In addition, there will be an interpretive display that will explain and tell the history of the trees.

2.a-I-11 which creates a park-like quality for all residential areas through the PUD process and the judicious siting of parks and greenways throughout those areas. In the portion of the project with the PUD, there will be open spaces, both public and private, and the development will have landscaped paseos located throughout the site.

2.a-I-12 which uses zoning of new residential developments to encourage a variety and mix of housing types and costs. The project is proposing three different product types, all aimed at a range of income levels and will have a range of units that range in size from 880 to over 2,500 square feet.

2.a-I-22 which encourages development of the Midtown area as an attractive and economically vital district that accommodates a mixture of housing within a system of landscaped boulevards, streets and pedestrian/bicycle linkages. The proposed project meets the intent of the Midtown Specific Plan and will bring a mixture of housing types to the Midtown area. In addition, the project incorporates new park areas and provides linkages between Main and Abel Streets through a linear park/greenway.

2.b-I-3 which encourages providing housing opportunities in Milpitas by meeting the City's regional fair-share housing obligations. The proposed project will add additional housing to the City. It will provide housing above and beyond what is identified in the City's Housing Element since portions of the site was not identified to be developed with housing, thus, further helping the City achieve its fair-share of housing.

3.b-I-1 which requires new developments to pay its fair share of street and other traffic improvements based on its impacts. As identified in the traffic study completed, the project will be required to pay its fair share to numerous traffic improvements based on its impacts.

Conformance with the Midtown Specific Plan

All projects proposed within the Midtown area are subject to a Site and Architectural Review (S-Zone Review), in accordance with Chapter 42 of the City's Zoning Ordinance. In addition to the usual S-Zone process of reviewing projects for conformance with the City's General Plan and Zoning Ordinance, no S-Zone approval shall be granted by the City without the decision-making body making the following finding:

"The proposed project conforms to the intent and the specific requirements of the Midtown Specific Plan, including the Development Standards and Design Guidelines." (Midtown Specific Plan)

The project substantially complies with all applicable Midtown policies, as further described below.

Land Use

The project conforms with the Midtown Specific Plan's Land Use Goals 2, 3, and 4, and Residential Policies 3.4 through 3.8 in that it provides a mix of new high density housing that addresses the small, medium and larger size families and the different affordability needs. It also proposes a new type of housing (small lot, higher density, single-family) that has not been built in the City and is convenient to transit facilities.

Parks and Open Space

The proposed project is consistent with Park and Open Space Policy 3.23 as the project is designing parks appropriately scaled and designed to increase the livability of the area and is creating parks along creeks and around the O'Toole Elm trees. The project is exceeding the Midtown park requirements.

In addition to comply with the above general parkland standards, the project also complies with Policy 3.28 recommending that a 2-acre park be established around the O'Toole Elms, with Policy 3.29 to create park and trail space over the Hetch-Hetchy right-of-way, and Policy 3.30 encouraging a 10-acre public parksite adjacent to the Penitencia Creek. Staff has determined that the parks substantially comply with these policies by providing usable improved open space that focuses on the identified resource areas and integrates them with the proposed development as well as the City's creek and trails system.

Circulation

The proposed project is consistent with Circulation Goal 1 because it provides pedestrian and bicycle access throughout the project and also provides bicycle parking within the development. The project itself is within three quarters of a mile of the existing light rail line. It is consistent

with Circulation Policies 4.5, 4.8, and 4.9 in that a traffic report was completed for the project that analyzed the capacity of the existing network and analyzed the circulation of the site with the existing street network. It is also consistent with Policies 4.12 (provision of a trail on the Hetch-Hetchy and the O'Toole elms), and 4.13, a connected system of sidewalks and pedestrian paths that provide safe and convenient access. Lastly it is consistent with Policy 4.19 in that proposes adequate off-street parking for the various uses.

Community Design

The proposed project is consistent with Community Design Goal 4 in that as part of the project is the improvement of South Abel Street through a new streetscape. It is consistent with Community Design Policies including 5.2, 5.3, 5.4 in that the project is proposing a well designed project that promotes walkability, improves pedestrian experience throughout the project, and is a high quality project that meets Midtown design standards.

Utilities

The proposed project is consistent with Utility and Service Policy 6.1 – 6.4 in that the project is incorporating recycle water into the proposal and it has been determined that there is adequate water to serve the project, consistent with Policy 6.5 and 6.6 as the project is making a fair share contribution to upgrade existing sewer facilities to accommodate the project, and consistent with Policy 6.7 – 6.9 as the project is incorporating storm water management design and equipment, as well as making necessary storm water drainage infrastructure to accommodate the project. The project is also consistent with Policy 6.10, 6.12, 6.13, 6.17 which relates to other utilities such as gas, electric and solid waste.

Public Services and Schools

Lastly the project is consistent with Policy 6.19 and 6.20 which relate to fire, police and emergency services and planning for school facilities. The project is making contributions to ensure that the future services are able to meet the demand that the projects future residents will require.

Staff has also reviewed the project against the design guidelines of the Plan and has determined that, as conditioned, the project is in conformance with all applicable design guidelines. Thus, staff concludes the project is consistent with the intent and specific requirements of the Midtown Specific Plan.

Conformance with the Zoning Ordinance

The single-family and townhouse residential areas (Parcel D) are consistent with the density range for the R3 zoning district and the applicant is requesting flexibility of the R3 development standards through a proposed Planned Unit Development (PUD). With approval of the related PUD, the project would comply with the R3 zoning district.

The condominium buildings on Parcel C are consistent with the density range for the R4 zoning district and the applicant is requesting flexibility of the development standards through a Use Permit. With approval of the related Use Permit, the project conforms to the development standards Multi-Family Very High Density "R4" District.

Conformance with the State Subdivision Map Act & Subdivision Ordinance

The proposed subdivision is consistent with the City's design and improvement standards and is consistent with the General and Specific Plan. The proposed subdivision can be physically accommodated on the site and does not have any constraining features and can meet the development standards in the respective zoning districts.

In conjunction with the conditions of approval and mitigation measures the project can accommodate the density of development as there will be adequate public facilities and infrastructure to support the density of the project. In addition, the project is incorporating mitigation measures that will not cause any significant harm or injury to an fish or wildlife habitat.

The subdivision will not conflict with any easements and will acquire proper encroachment permits to allow for work in the easements. In addition the applicant will provide new easements where necessary (for purposes of pubic roads, utilities and other public service utilities).

Affordable Housing

Both the City's Housing Element and the Midtown Specific Plan contain policies (Housing Policy C-I-2 and Specific Plan Policy 3.6) to provide at least 20 percent affordable units within new residential projects. In addition, the R4 zoning district has a minimum affordable housing requirement of 20 percent. The applicant has entered into an Memorandum of Understanding with the Redevelopment Agency to provide 110 deed-restricted, moderate-income home ownership units (85 condominium units, 15 town homes, and 10 single family detached units) on-site and a contribution of \$6 million towards the development of a 98-unit, low-income senior housing project proposed across from the new library site on North Main Street. The applicant will be entering into a Disposition and Development Agreement (DDA) with the Redevelopment Agency for the provision of these affordable units.

ENVIRONMENTAL IMPACTS

A Draft Environmental Impact Report was prepared and circulated for public review on October 1, 2004. The public comment period ends on November 14th and we have received five comment letters as of the publication of this report. Those comment letter are provided in the Commission's project binder and staff will hand deliver any additional letters received during the comment period to the Commissioners. Staff will provide draft verbal responses to the comments during our presentation.

The Draft EIR thoroughly analyzed the potential for the project to cause or contribute to significant environmental effects. Some of the analyses in the Draft EIR described earlier discussions from the Midtown Specific Plan EIR; all mitigations measures adopted upon approval of the Midtown Specific Plan continue to apply to implementing projects as appropriate. The Draft EIR identified additional potentially significant impacts and mitigation measures as described above. Impacts that can be reduced to less than significant levels would be addressed in mitigation findings by the City Council upon any project approval. Impacts that are significant and unavoidable would be addressed in a Statement of Overriding Considerations by the City Council.

Transportation/Traffic

The project results in additional trips throughout the area by allowing the development of residential units. When compared to the existing land use designations of general commercial and park space, the proposal actually has a net reduction in the number of trips. However, over the existing conditions the proposed project will generate new trips throughout the area, thus, as part of the EIR, a traffic impact analysis (TIA) was completed.

As part of the TIA, 31 intersections and six freeway segments were evaluated in accordance with the Congestion Management Program (CMP) and the City of Milpitas standards during the AM and PM peak hours.

Intersection Impacts

Intersections were analyzed as part of the Milpitas Midtown Specific Plan EIR. The Midtown Specific Plan EIR identified that most traffic impacts cannot be mitigated over the long term. At the time of the Midtown EIR certification, the City adopted overriding considerations for these impacts. Moreover, the Midtown EIR required that fair share contributions would be required for projects that impact intersections and roadways.

The Draft EIR identified eight (8) intersections that would be impacted by the project. They were as follows:

- ❑ I-880 northbound off-ramp and Great Mall Parkway
- ❑ S. Abel Street and Great Mall Parkway
- ❑ I-880 Southbound off-ramp and Tasman Drive
- ❑ Calaveras Boulevard and Milpitas Boulevard
- ❑ Alder Drive and Tasman Drive
- ❑ Great Mall Parkway/East Capitol Avenue and Montague Expressway
- ❑ South Main Street and Carlo Street
- ❑ South Main Street and Corning Avenue

Of these eight intersections; one could be mitigated (Alder and Tasman Drives) to a less than significant level, two require further traffic signal warrant studies to determine if a traffic light is needed (S. Main and Carlo Street and S. Main St. and Corning Ave.). The remaining five intersections can not be mitigated to a level of non-significance. These five intersections and the Alder and Tasman Drive intersection will require a fair share contribution for overall Midtown traffic improvements, however, project impacts at these five intersections will be significant and unavoidable.

The mitigation measures identified in the Draft EIR include traffic signal warrant analysis, fair share contributions to the Montague widening, Calaveras Corridor fee, and Great Mall Parkway corridor fee. In addition, to mitigate impacts at the Great Mall Parkway and I-880 ramps, the intersection shall be modified prior to any permits for the project. Because of the level of traffic and road improvements involved with the KB Project, including improving a large area of South

Abel Street, the City has determined that this will be an adequate replacement for the Midtown Specific Plan traffic impact fee.

The result of the report identified that the project will impact deficient intersections on Montague Expressway. Based on the number of project-generated PM peak hour trips, the project shall contribute \$465,000 dollars as part of the Montague Expressway impact fee.

In addition the project is also impact the Calaveras Boulevard and Great Mall Parkway corridor. Based on the project impacts to these two corridors, the project shall contribute \$1,000,000 dollars to improvements in the Calaveras Boulevard Corridor and \$400,000 to improvements to the Great Mall Parkway Corridor.

Freeway Impacts

Freeway segments were analyzed as part of the Milpitas Midtown Specific Plan EIR. The Midtown Specific Plan EIR identified that most traffic impacts cannot be mitigated over the long term. At the time of the Midtown EIR certification, the City adopted overriding considerations for these impacts. Recent freeway widening may result in improved traffic conditions, however, project impacts remain significant and unavoidable.

Cumulative Impacts

The Draft EIR identified that the portion of westbound Tasman Drive in the AM, between McCarthy Boulevard to Interstate 880 will have a significant and unavoidable impact due to increased traffic.

Connection to Abbott Street

The traffic study identified that a north-south connection to Abbott Street will help overall circulation in the area by providing another access point. Because the project will be impacting streets and intersections to points where mitigation does not exist, **staff recommends** that the project create a north-south connection to Abbott Street to help improve the circulation of the area.

Air Quality

Similar to the traffic impacts, air quality impacts were identified as part of the Midtown EIR and statement of overriding considerations were adopted for air quality impacts that could not be mitigated to a non-significant level.

Because of the new number of trips over the existing condition and due to required construction that will be required to improve and construct the project, an air quality impact analysis was completed for the project.

The Draft EIR identifies construction and regional air quality impacts. Mitigations adopted when the Midtown Specific Plan was approved are reflected in Mitigation Measure AQ-1, while AQ-2 proposes measures to reduce regional impacts. Even with mitigation, these impacts remain significant and unavoidable.

Noise

Portions of the project are located in areas that will exceed the allowable noise levels for the proposed uses, in addition, it was identified through the acoustical analysis that noise from construction, parking areas and additional project generated traffic will impact the existing

neighborhood and future residents of the project. All impacts are identified with the Draft EIR can be reduced to less than significant.

Interior Noise

For residential uses, the *interior* noise level cannot exceed a 45 LDN (a 24 hour average, day-night noise level) standard. Because this cannot be measured until detailed architectural plans and building construction plans become available, Draft EIR mitigation measure NOI-1 requires a detailed noise analysis be required to determine the building upgrades necessary to achieve the 45 LDN level in all habitable rooms.

For residences that face Interstate 880 and South Abel Street, additional mitigation will be required to provide a 45 LDN level. To achieve this level of noise attenuation, mitigation measure NOI-2 requires forced air mechanical ventilation be provided so that windows can be closed to control noise, while still providing fresh air to the residents.

Exterior Noise

Exterior areas of the project may also be subject to significant noise impacts from the proposed commercial uses to the west of the project site. To mitigate these impacts, mitigation measure NOI-3 requires the applicant submit a noise attenuation plan to ensure compatibility of commercial uses with the adjacent residential development.

To mitigate parking noise impacts to existing community to the north mitigation measure NOI-4 requires a minimum six (6) foot tall, solid noise barrier fence at the northern edge of the property, where it adjoins the existing single-family residences.

During construction of the project, it is expected that noise will emanate from the project site and will impact the existing residential neighborhood to the north. To mitigate construction noise impacts, mitigation measure NOI-5 requires implementation of noise reduction measures, including limiting hours of construction to 7:00AM to 7:00PM on weekdays and 9:00AM to 5:00PM on Saturdays and no noise-generating construction on Sundays or holidays, use of mufflers on equipment, locate stationary noise generating equipment as far as possible from sensitive receptors, prohibit unnecessary idling of equipment and designate a noise disturbance coordinator to address noise complaints and issues.

Biological Resources

The project is proposed on a site that is currently vacant. Because of the semi-natural state of the land and the size, various biological analyses were done for the project, including for burrowing owls and other fauna and flora (including the Elm tree grove). After numerous surveys of the site significant impacts were identified to burrowing owls and to creek resources and species during construction.

The Draft EIR identified mitigation measures to reduce the impacts to a non-significant level. Mitigation measures proposed include plant species surveys, removal of trees during raptor non-nesting seasons, implementing a burrowing owl relocation program outside of the breeding season and purchase of new lands for permanent habitat and protection of the species, and conforming with all requirements if any wetlands are identified on the site.

Geologic Hazards

The Draft EIR identified potential ground shaking and liquefaction impacts. Mitigation measure GEO-1 requires final geology and soils reports on these matters.

Flooding, Drainage and Water Quality

The site is adjacent to Lower Penitencia Creek and conveys water through the site during heavy rainfall. In addition, as part of the project proposal there will be new structures and major grading of the land that will occur. Because of these factors there are significant flooding, drainage and water quality impacts.

Flooding

Because of the proximity to Penitencia Creek and the lower elevation, the site is in a known floodplain. To mitigate the project from flooding, the Draft EIR requires the project be built above the base flood elevation and a final floodplain study be submitted that proves to the City that the existing sheet (water) flows through the project can be accommodated. The applicant will also be required to submit a final bridge design that can accommodate all flows in the Penitencia Creek.

Drainage and Water Quality

The site will contain new impervious surfaces and will generate stormwater runoff during periods of rainfall. The stormwater may contain various contaminants including oils, dirt, and other impurities that could enter into the drainage system and eventually out into the bay. To mitigate these impacts and ensure that there is adequate drainage throughout the site and cleaning of runoff before it reaches the bay, the Draft EIR requires mitigation measures including utilizing existing storm drainage facilities and outfalls to properly drain the site, design drainage facilities to minimize erosion and other on and off-site problems, minimize impervious surfaces, use of pretreatment devices and extensive stenciling to discourage illegal dumping into catch basins and field inlets. In addition, the mitigations require that best management practices be utilized during construction and post construction, and education be provided to future residents and commercial users of the project.

Cultural Resources

Development is proposed near the Elmwood Correctional Facility, which is known to contain a prehistoric archaeological site. Subsurface testing was done throughout the site including 31 trenches – no cultural resources or evidence of buried cultural material were found. However, because of the close proximity to the project site mitigation CUL-1 requires the applicant hire a qualified archaeologist to be present during any ground disturbing activities. If any remains are unearthed, construction is to be halted and notification shall be provided to the County of Santa Clara and the City.

Hazardous Materials

The abandoned golf driving range facility and its structures could potentially contain hazardous materials. To minimize the impacts, HAZ-1 and HAZ-2 require the applicant to assess the buildings for any hazardous materials prior to demolition and use proper removal and disposal of these materials. In addition, the applicant shall remove two ground mounted electrical

transformers and the surrounding soils shall be tested for PCB's. In any PCB's are found removal shall be in accordance with applicable state and federal regulations.

Public Facilities and Services

There must be adequate public facilities and services to serve the project to ensure that the project does not create significant impacts. In regards to public facilities, the Draft EIR mitigations require the applicant to design and construct water lines and sanitary sewers and appurtenances necessary to serve the project. In addition, the applicant will be required to pay all necessary fees to serve the project.

While the project is adding a sizable population to this area of the City, it is anticipated that most public services (schools, parks, and library) will be adequate to serve the site. However, it is anticipated that fire, police and park/landscape maintenance will be significantly impacted by the proposed project. To mitigate this impact, mitigation PS-1 requires the applicant contribute a fair share contribution of costs to serve the proposed community.

RECOMMENDATION

Close the Public Hearing. Adopt items 1 and 2, (EIR and GPA and SPA resolutions) and Recommend items 3-6 to the City Council based on the discussion in the staff report, the findings below, and special conditions contained as part of the Commission's packet:

1. Adopt a resolution certifying the Final Environmental Impact Report (EIA NO. EA2003-7);
2. Adopt a resolution approving General Plan and Midtown Specific Plan map amendments (GP2003-1) from General Commercial and Parks/Recreation to Multi-Family High Density, from Parks/Recreation to General Commercial, from Mixed Use to Parks/Recreation, from Multi-Family Very High Density to Parks/Recreation and from Parks/Recreation to Multi-Family Very High Density;
3. Adopt Ordinance No. 38.765 for amendments to the Zoning Ordinance Map (ZC2003-2) to change lands from General Commercial and Parks and Open Space to Multi-Family High Density, from Parks and Open Space to General Commercial, from Mixed Use to Parks and Open Space, from Multi-Family Very High Density to Parks and Open Space and from Parks and Open Space to Multi-Family Very High Density.
4. Approve the Vesting Major Tentative Map to subdivide parcels for residential, commercial and park uses;
5. Approve Planned Unit Development (PD2003-1) for 368 residential units west of South Abel Street;
6. Approve the "S" Zone Application (SZ2003-6) and Use Permit No. UP2003-26 for 315 residential units and deviations to development standards for the portion of the project east of South Abel Street.

FINDINGS FOR ZONING MAP AMENDMENT (ZC2003-2)

1. The proposed Zoning Map Amendment is proposed to allow the development of new housing and new parks and open space uses within this portion of the City.

2. The proposed Zoning Map Amendment is consistent with the General and Specific Plan in that it does not conflict with any existing policies and will be in conformance with the underlying General and Specific Plan land use designations once approved by the City Council.

FINDINGS FOR VESTING TENTATIVE MAP (MA2003-4)

1. The proposed Vesting Major Tentative Map is in conformance with the General Plan and Midtown Specific Plan as it is subdividing land into smaller parcels to accommodate a high-density housing project.
2. The proposed Vesting Major Tentative Map is in conformance with the Zoning Ordinance, by being within the allowable densities of the zoning districts and through the approval of exceptions to development standards.
3. The proposed Vesting Major Tentative Map is consistent with the State Subdivision Map Act and the Subdivision Ordinance, as it is consistent with General Plan principles including:
 - a. Compact development and higher densities;
 - b. Variety of housing types;
 - c. Park-like setting;
 - d. Implementation of Midtown Specific Plan goals, policies and development standards.
4. It is also consistent with the following General Plan policies including:
 - a. Compliance with building intensity limits;
 - b. Promoting in-fill development in the incorporated City limits;
 - c. Development of the Midtown area as an attractive and economically vital district.
5. The proposed Vesting Major Tentative Map is physically suitable for the type and density of development as it is incorporating improvements to accommodate the project.
6. The proposed Vesting Major Tentative Map will not cause any damage or injury to fish and wildlife and will not cause any public health problems as the project is incorporating mitigation measures to prevent this from occurring as a result of the project.
7. As conditioned the proposed Vesting Major Tentative Map is not conflicting with any existing easements as it will require encroachment permits prior to any work in any existing easements.

FINDINGS FOR PLANNED UNIT DEVELOPMENT (PD2003-1)

1. The proposed development is consistent with the City of Milpitas General Plan and Midtown Specific Plan as to land use and density (31 - 32 DU/acre).
2. The proposed development is consistent with the City of Milpitas Zoning Ordinance in terms of land use and can make additional findings as follows.
 - a. The Planned Unit Development (PUD) is not exceeding the allowable density for the zoning district, 20 DU/Acre.

- b.* Public benefits associated with the PUD are providing more than required developed park space, creation of 208 affordable housing units, and infrastructure improvements in the surrounding area all of which are public benefits not otherwise attainable through compliance with the R3 zoning standards.
- c.* The PUD is harmonious with the character of the surrounding neighborhood as the project is proposing high-density housing as well as single-family homes which can be readily located in the neighborhood.

FINDINGS FOR SITE AND ARCHITECTURE APPROVAL (P-SZ2003-6) AND USE PERMIT NO. P-UP2003-26

1. The proposed development is consistent with the City of Milpitas Zoning Ordinance in terms of land use and development standards for Multi-Family Very High Density zoning because the proposed development is within the required density (31 –40 DU/acre) and the proposed residential development promotes walkability and the creation parks and trails.
2. The proposed development is consistent with the City of Milpitas General Plan in terms of land use and density because the proposed project is a multi-family residential project with a proposed density between 31 - 32 DU/acre.
3. As conditioned, the proposed residential development will not be detrimental or injurious to the public health, safety, and general welfare to future residents and to the surrounding community because the project will remove an abandoned building and transformers, will install a new traffic signal to cross South Abel Street, and completed an EIR that identified and mitigated environmental impacts.
4. The project is consistent with the Midtown Specific Plan in that it conforms with development standards with approval of the associated use permit.
5. As conditioned, the layout of the site, design of the proposed buildings, and landscaping are compatible and aesthetically harmonious with the surrounding area and will improve the aesthetics of the site.
6. The exceptions associated with the project meet the design intent of the Specific Plan by not adversely impacting the architecture of the building and the site plan and increasing the amount of landscaping at the site. The exceptions allow the project to utilize smart growth trends of compact, higher density housing on infill sites close to transit facilities.